PATENT   **BOYKP103US**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Applicant(s):   Sher (Karim) Sachedina   Examiner: Susanna M. Meinecke Diaz

Serial No: 09/634,723   Art Unit: 3623

Filing Date: August 5, 2000

Title: DATABASE MANAGEMENT SYSTEM TO FACILITATE BUDGETING AND
         FORECASTING IN THE HOSPITALITY INDUSTRY

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPEAL BRIEF

Dear Sir:

Appellant's representative submits this brief in connection with an appeal of the above identified application. A credit card payment form is filed concurrently herewith in connection with all fees due regarding this appeal brief. In the event any additional fees may be due and/or are not covered by the credit card, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1063 [BOYKP103US].

L   Real Party in Interest (37 C.F.R. §41.37(c)(1)(i))

The real party in interest in the present appeal is OKRAA, L.L.C., the assignee of the present application.

II.   Related Appeals and Interferences (37 C.F.R. § 41.37(c)(1)(ii))

Appellant, appellant's legal representatives, and/or the assignee of the present application are unaware of any appeals or interferences which will directly affect, or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III.   Status of Claims (37 C.F.R. § 41.37(c)(1)(iii))

Claims 2, 9, 10, 12-15, 17-20, 34-40 and 47-58 have been canceled and claims 1, 3-8, 11, 16, 21-33 and 41-46 stand rejected by the Examiner. The rejection of claims 1, 3-8, 11, 16, 21-33 and 41-46 is being appealed.

IV.   Status of Amendments (37 C.F.R. § 41.37(c)(1)(iv))

Claims 1, 3, 5-8, and 16 were amended subsequent to final rejection. The amendments of claims 1, 3, 5-8, and 16 were entered by the Examiner as indicated at page 2 of the Advisory Action (mailed December 6, 2005).

V.   Summary of Claimed Subject Matter (37 C.F.R. § 41.37(c)(1)(v))

A.   Independent Claim 1

Independent claim 1 recites a user interface to facilitate at least one of analysis and planning of business operations, comprising: a first user interface component for selecting operating parameters for at least one of a budgeting and forecasting process, the selected operating parameters including at least one account of a plurality of defined accounts and a time period associated with the at least one process; a second user interface element characterizing a method component used to derive base data for the at least one account; a third user interface element characterizing an impact value derived from the base data, the impact value adjusts the base data to provide adjusted data for the at least one account; and a display portion having

2

display areas to display an indication of at least one of the base data and the adjusted data for the at least one account; the second and third user interface elements are selectable to effect a change in the respective method component and impact value associated with the at least one account. (*See e.g.*, page 15, line 8-page 16, line 11; page 20, line 7-page 24, line 12; FIGS. 4, 10, 11a-d).

B.   Independent Claim 22

Independent claim 22 recites a computer implemented method to facilitate at least one of budgeting, planning, analysis and forecasting, the method comprising: receiving data indicative of business unit activities; storing the data to respective accounts of a plurality of accounts on a computer readable medium; generating base data for each selected account of the plurality of accounts, each selected account including an associated method that is applied to the stored account data to determine the base data; defining impact data having an impact value derived from the base data for at least one account of the plurality of accounts; and determining a value of adjusted data as a function of the impact data and the base data. (*See e.g.*, page 15, ll. 14-21; page 52, line 24-page 63, line 27; FIGS. 27-35).

C.   Independent Claim 41

Independent claim 41 recites a computer implemented method to facilitate budgeting, planning, analysis and/or forecasting comprising: receiving data that pertains to business unit activities; storing the data to a computer readable database as a hierarchical chart of accounts, each account representing a unit of a larger business; generating base data for select accounts from the stored data for a select period of time utilizing at least one method associated with one or more accounts; defining an impact value derived from the base data for at least one account based on circumstances external to business operations; and computing and providing a value of adjusted data as function of impact data and the base data. (*See e.g.*, page 15, ll. 14-21; page 52, line 24-page 63, line 27; FIGS. 27-35).

VI.   Grounds of Rejection to be Reviewed (37 C.F.R. § 41.37(c)(1)(vi))

A.   Whether claims 1, 3-5, 11, 16, 21-32, 41, and 44-46 are anticipated under 35 U.S.C. §102(e) by Groat, *et al.* (US 2001/0032155 A1).

3

    B.   Whether claims 6-8, 33, 42 and 43 are unpatentable under 35 U.S.C. §103(a) over Groat, *et al.* (US 2001/0032155 A1).

VII.   **Argument (37 C.F.R. § 41.37(c)(1)(vii))**

A.   <u>Rejection of Claims 1, 3-5, 11, 16, 21-32, 41, and 44-46 Under 35 U.S.C. §102(e)</u>

     Claims 1, 3-5, 11, 16, 21-32, 41, and 44-46 stand rejected under 35 U.S.C. §102(e) as being anticipated by Groat, *et al.* (US 2001/0032155 A1). Reversal of this rejection is requested for at least the following reasons. Groat, *et al.* does not disclose, teach or suggest each and every aspect of the subject claims.

> A single prior art reference anticipates a patent claim only if it expressly or inherently *describes each and every limitation set forth in the patent claim.* *Trintec Industries, Inc., v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 U.S.P.Q.2D 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). *The identical invention must be shown in as complete detail as is contained in the ... claim. Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

     The claimed subject matter relates to a database management system to facilitate budgeting and/or forecasting by, for example, analyzing *base data* in order to characterize the impacts various factors have upon an account, and adjusting the data accordingly in order to make the forecast. As an exemplary illustration, the subject invention can collect sales information as base data. (*See* page 15, ll. 14-21). In addition, environmental and economic data that may have an impact upon facility performance can also be collected as base data. (*See* page 8, lines 12-14). Thus, by comparing this *base data* with other base data, the *impact* of certain factors, such as good weather versus bad weather, and/or the effects of a holiday or a nearby convention on store sales can be determined. (*See* page 31, lines 4-7). Finally, once the impact of certain factors (*e.g.*, weather, holiday, conventions, ...) has been determined, this *impact value* can be applied to create adjusted data by applying the impact value to the base data. (*See* page 38, lines 3-14). For example, if it is known that a convention will be held near the facility

<div align="center">4</div>

next month, and that the impact value of a convention is an increase in sales by a certain percentage, budgeting and/or forecasting in this way can be more accurate than merely making a forecast based upon previous sales data for a similar period. In particular, independent claim 1 recites, "a second user interface element characterizing a method component used to *derive base data* for the at least one account; a third user interface element characterizing an *impact value derived from the base data*, the impact value adjusts the base data *to provide adjusted data* for the at least one account." Independent claims 22 and 41 recite limitations that are, for the purposes of this Reply, similar to independent claim 1. Groat, *et al.* does not disclose or suggest these novel features.

Groat, *et al.* relates generally to a financial status display system, and specifically to a system that provides visual representations of personal financial budgets. (*See* Fig. 1). In particular, Groat, *et al.* employs objects/icons to graphically illustrate the relationships between various financial parameters for a numeric system (*see* Abstract), *e.g.*, a visual model that can perform conventional spreadsheet operations and display the status of a budget. (*See* paragraphs 0008; Fig. 1). More particularly, the numeric system is applied to a budget by taking known values such as income and expenses (*see e.g.*, paragraph 0039) that are input by a user (*see* paragraph 0073; FIG. 2, item 64). Performing arithmetic operations on known values input by a user is not analogous to *an impact value derived from the base data*...[that] adjusts the base data *to provide adjusted data.* For example, subtracting expenses from income to create a budget is not analogous to examining the effects a nearby convention has on sales (*e.g.*, base data), deriving an impact value based upon those effects, and adjusting the data accordingly (*e.g.*, adjusted data). Most particularly, Groat, *et al.* plugs in a *user-inputted*, known value for income, expenses, *etc.*, but does not contemplate analysis of the conditions and/or parameters that *affect* income, expenses, *etc.*

Groat, *et al.* expressly teaches that household income (HI) can be operated on by an "expression", which is a mathematical formula input by the user (*e.g.*, a rate, R, of 10% of income goes into a bank account (BA)). The Examiner improperly concludes that this "expression" can be an "impact value" recited in the subject claims because the "expression" adjusts the base data to provide adjusted data (*e.g.*, $BA = HI*0.10$, or the amount in the bank account (the adjusted data) is impacted by an "expression" that is 10% of the household income (the base data)). However, the "expression," while it may operate on one parameter to yield a

5

second parameter, and therefore, under the Examiner's interpretation cause an "impact," it is not an impact value recited in the subject claims because it is not is not *derived from the base data*. Rather, the "expression" is based upon user input, for which the reference is silent upon how the user derives this input, and, in particular, does not teach or suggest that it is derived from base data.

Accordingly, Groat, *et al*. does not describe the identical invention in as complete detail as in the subject claims. At page 2 of the Advisory Action (dated October 31, 2005), the Examiner contends that:

> Groat discloses various equations…Any equation defines an impact of one variable on another and the calculated quantity can be said to be derived, or based on, a function of the recited variables and constants. For example, if A = B * C, wherein B is a constant and C is a variable, then A is derived from B and C. Furthermore, the value of B or C impacts the value of A and therefore directly or indirectly contributes to an impact value in relation to A. A similar analysis can be made of the equations disclosed in Groat.

The Examiner's analysis falls short in at least two ways. First, as described *supra*, suggesting that B or C have an impact on A, does not also suggest that B or C are *derived from the base data*. Hence, while B or C may create an impact, B or C are not impact values as recited by the subject claims.

Secondly, the Examiner has not indicated how the elements of Groat, *et al*. anticipate all the features of the subject claim. In particular, Groat, *et al*. cannot be read to simultaneously teach or suggest both base data and adjusted data as they are recited in the claims because the instant claims derive both, whereas Groat, *et al*. derives only one. For example, the Examiner argues that "A is derived from B and C," which indicates that A is argued to be the base data that is derived (*e.g.*, a second user interface element characterizing a method component used to *derive base data* for the at least one account), wherein base data is "*A field indicating budget data based on applying the Method to stored data*" as defined in Table X at page 45 of the specification portion of applicant's disclosure. In this case, A can be said to be a field indicating budget data based on applying the Method (*e.g.*, C) to stored data (*e.g.*, B), such that A = B * C. However, this interpretation leaves no element in Groat, *et al*. to represent adjusted data or an

6

impact value derived from the base data. In the alternative, if A is argued to be the adjusted data provided by adjusting (*via* B or C) the base data (*e.g.*, a third user interface element characterizing an impact value derived from the base data, and *adjusts the base data to provide adjusted data* for the at least one account), then the reference does not provide an element to represent base data or an impact value derived from base data. In the latter case, the Examiner might argue that B is the base data and C is the impact value, but B is not disclosed by Groat, *et al.* to be "a field indicating budget data based on applying the Method to stored data," and C is not disclosed to be derived from base data (*e.g.*, B). Regardless, A cannot be both adjusted data and base data, even though the Examiner cites the same portions of Groat, *et al.* to reject both aspects of the claim. (*See* Final Office Action dated August 18, 2005, page 8). Moreover, even if A is interpreted to be both at the same time, the analysis still fails because there is no impact value *derived from the base data*.

Returning to the express examples provided by Groat, *et al.* (*e.g.*, BA = HI * R, or the amount directed to the bank account is the household income * the specified rate), the analysis is equally as straightforward. The Examiner is reading the amount directed to the bank account as the adjusted data, the household income as the base data, and the rate as the impact value. However, this rationale fails for the same reasons the Examiner's simple example of A = B * C fails. Most particularly, the specified rate, R, is used to *operate upon* household income, HI, but Groat, *et al.* does not teach or suggest, nor does the Examiner argue, that the rate (what the Examiner argues is the impact value) is *derived from* household income (what the Examiner argues is the base data).

In short, Groat, *et al.* can 'derive' a *budget* from various input parameters that 'impact' the *budget* such as income and expenses, but the reference does teach or suggest deriving the input parameters themselves, but rather teaches they are inputted by a user. Deriving a budget from base data is materially distinct from deriving an impact value (that affects the budget) from base data. Accordingly, the reference does not teach or suggest an impact value *derived from the base data*. For at least the aforementioned reasons, this rejection of independent claims 1, 22 and 41 as well as all claims that depend there from should be reversed.

B.   Rejection of Claims 6-8, 33, 42 and 43 Under 35 U.S.C. §103(a)

Claims 6-8, 33, 42 and 43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Groat, *et al.* (US 2001/0032155 A1). This rejection should be reversed for at least the following reasons. Claims 6-8, 33, 42 and 43 depend directly or indirectly from independent claims 1, 22 and 41, respectively. Accordingly, claims 6-8, 33, 42 and 43 are allowable for at least the same reasons as independent claims 1, 22 and 41, and this rejection should be reversed.

C.   CONCLUSION

For at least the above reasons, the claims currently under consideration are believed to be patentable over the cited references. Accordingly, it is respectfully requested that the rejections of claims 1, 3-8, 11, 16, 21-33 and 41-46 be reversed.

If any additional fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [BOYKP103US].

Respectfully submitted,

AMIN & TUROCY, LLP

David W. Grillo
Reg. No. 52,970

AMIN & TUROCY, LLP
24TH Floor, National City Center
1900 E. 9TH Street
Cleveland, Ohio 44114
Telephone (216) 696-8730
Facsimile (216) 696-8731

8

VIII. Claims Appendix (37 C.F.R. § 41.37(c)(1)(viii))

1.   A user interface to facilitate at least one of analysis and planning of business operations, comprising:

    a first user interface component for selecting operating parameters for at least one of a budgeting and forecasting process, the selected operating parameters including at least one account of a plurality of defined accounts and a time period associated with the at least one process;

    a second user interface element characterizing a method component used to derive base data for the at least one account;

    a third user interface element characterizing an impact value derived from the base data, the impact value adjusts the base data to provide adjusted data for the at least one account; and

    a display portion having display areas to display an indication of at least one of the base data and the adjusted data for the at least one account;

    the second and third user interface elements are selectable to effect a change in the respective method component and impact value associated with the at least one account.

2.   (Cancelled)

3.   The user interface of claim 1, the third user interface element, upon being selected, is displays a list of active impact components associated with the at least one account, each of the impact components being selectable to modify attributes associated with each respective impact component.

4.   The user interface of claim 3, the impact value for the at least one account is an aggregate of impact values from each of the active impact components.

9

5.   The user interface of claim 1, the at least one account includes a plurality of selected accounts of the plurality of defined accounts, each account of the plurality of selected accounts having an associated second user interface element characterizing a method component used to derive associated base data and an associated third user interface element characterizing an impact value to adjust the corresponding derived base data and provide adjusted data for each respective account, the display portion having display areas to display an indication of at least one of the base data and the adjusted data for each of the plurality of selected accounts;

        each of the second and third user interface elements are selectable to effect a change in the respective method component and impact value associated with an associated one of the plurality of selected accounts.

6.   The user interface of claim 5 further including a fourth user interface component to, upon activation, concurrently display the adjusted data and corresponding data for each of the plurality of selected accounts for a different period of time from that shown in the display areas based on account data stored in connection with each of the plurality of selected accounts.

7.   The user interface of claim 1 further including a fourth user interface component to, upon activation, concurrently display the adjusted data and corresponding data for the at least one account for a different period of time from that shown in the display area based on account data stored for the at least one account.

8.   The user interface of claim 7, the fourth user interface component further displays a daily comparison of the adjusted data and the corresponding data for the at least one account.

9-10   (Cancelled)

11.   The user interface of claim 1, the third user interface element further characterizes key result area data associated with the at least one account, the key result area data including a key result area impact value indicative of a desired result for the at least one account, the key result impact value corresponding to at least part of the impact value.

10

12-15. (Cancelled)

16.   The user interface of claim 1, further including a fourth user interface element that characterizes a selectable manual impact value associated with the at least one account, the fourth user interface element being associated with a method component to generate key result area data having another key result impact value corresponding to the manual impact value, the manual impact value corresponding to at least part of the impact value.

17-20. (Cancelled)

21.   The user interface of claim 1, the third user interface element is operatively associated with a key result area component that characterizes a desired result for the at least one account, the key result area component providing data indicative of a key result impact value for the at least one account, the third user interface element being further associated with an action plan component that characterizes a objective for another account of the plurality of accounts, the action plan component including data indicative of an action plan impact value for the at least one account that identifies a cost factor associated with achieving the objective.

22.   A computer implemented method to facilitate at least one of budgeting, planning, analysis and forecasting, the method comprising:

receiving data indicative of business unit activities;

storing the data to respective accounts of a plurality of accounts on a computer readable medium;

generating base data for each selected account of the plurality of accounts, each selected account including an associated method that is applied to the stored account data to determine the base data;

defining impact data having an impact value derived from the base data for at least one account of the plurality of accounts; and

determining a value of adjusted data as a function of the impact data and the base data.

11

23.   The method of claim 22, the impact data includes key result area data having a definable key result area impact value indicative of a desired result for the at least one account, the defined impact value for the at least one account including the key result area impact value.

24.   The method of claim 23, further including selectively modifying the key result area data which, in turn, modifies the defined impact value.

25.   The method of claim 23, the key result data further includes an associated method component that is applied to at least one of the stored account data and the base data to derive the key result area impact value.

26.   The method of claim 23, the impact data further includes action plan data having an action plan impact value for the at least one account indicative of a cost associated with achieving an objective for at least one of the plurality of accounts related to the adjusted budget data, the defined impact value for the at least one account including the action plan impact value.

27.   The method of claim 26, further including selectively modifying at least one of the key result area data and the action plan data, which, in turn, modifies the defined impact value according to the step of selectively modifying.

28.   The method of claim 26, the adjusted data defines a first budget, the method further including modifying at least one of the key result area data and the action plan data and generating a second adjusted budget based on the modified user interface element.

29.   The method of claim 22, the impact data includes action plan data having an action plan impact value for the at least one account indicative of a cost associated with achieving an objective for at least a second account of the plurality of accounts, the defined impact value for the at least one account including the action plan impact value.

12

30.   The method of claim 29, the action plan data further includes an associated method that is applied to at least one of the stored account data and the base data to derive the action plan impact value.

31.   The method of claim 22 further including defining calendar data having a calendar time period and a starting day and aligning a plurality of time periods in the stored account data relative to the starting day.

32.   The method of claim 31, aligning further includes locating a day in each of a plurality of time periods associated with stored account data that matches the starting day of the calendar data; and

aligning each of the plurality of time periods of the stored account data so that each of the plurality of time periods has a starting day that matches the starting day of the calendar data, whereby each day associated with each of the plurality of time periods is aligned with a corresponding day of the calendar time period.

33.   The method of claim 31 further including designating the at least one account for a selected event and determining an attribute impact value for the designated account, the attribute impact value being determined as a function of the stored account data for the designated account for a corresponding event in at least one other year in the stored account data, the defined impact value for the at least one account including the attribute impact value.

34-40. (Cancelled)

13

41.   A computer implemented method to facilitate budgeting, planning, analysis and/or forecasting comprising:

receiving data that pertains to business unit activities;

storing the data to a computer readable database as a hierarchical chart of accounts, each account representing a unit of a larger business;

generating base data for select accounts from the stored data for a select period of time utilizing at least one method associated with one or more accounts;

defining an impact value derived from the base data for at least one account based on circumstances external to business operations; and

computing and providing a value of adjusted data as function of impact data and the base data.

42.   The method of claim 41, the received data is from a point of sale.

43.   (The method of claim 41, the received data is from one of a store and a department.

44.   The method of claim 41, the impact value is defined based on a desired result.

45.   The method of claim 41, the impact value is defined based on an event.

46.   The method of claim 41, the computing adjusted data comprises applying an impact to a plurality of accounts based on account relationships as defined by the chart of accounts.

47-58. (Cancelled).

14

IX.   Evidence Appendix (37 C.F.R. §41.37(c)(1)(ix))
       None.

X.   Related Proceedings Appendix (37 C.F.R. §41.37(c)(1)(x))
       None.